IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 16003 of 1999

Between:

M/s Sri Ramakrishna Rice Mill

Rep. by its Partner Y.C.Reddeppa Reddy,

Chinaparthy, Vayalapadu, Chittoor district.

..... PETITIONER

AND

1.The A.P. Transco, rep. by its Chairman

and Managing Director, Vidyuth Soudha,Hyderabad.

2.The Chief Engineer, A.P. Transco, Nellore Zone,

Nellore.

3.The Superintending Engineer, A.P. Transco

Assessment Circle, Cuddapah.

4.The Addl. Divisional Engineer, A.P. Transco

(Operations) Kalikiri, Chittoor District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to Lr.No.CEE.NZ.NLR.A.126/D.No.674/99, dated

16-3-1999 confirming the orders of the 3rd respondent vide No. SE/A/CEP/FAO MPL/D.5/97-98/D.No.30/98, dated 30-4-1998 and to quash the same.

Counsel for the Petitioner: MR.C.V.NAGARJUNA REDDY

Counsel for the Respondents: SMT.M.VINOBHA DEVI,STANDING COUNSEL FOR APSEB

The Court made the following:

ORDER

Heard the learned counsel for the petitioner and also the learned Standing Counsel appearing on behalf of the respondents.

The petitioner herein, who is running a Rice Mill files this Writ Petition *inter alia* seeking a writ of Certiorari challenging the proceedings, dated 16-3-1999 of the 2nd respondent dismissing the appeal by confirming the orders of the 3rd respondent dated 30-4-1998 in regard to certain irregularities found during the course of inspection.

The case of the petitioner is that during the inspection conducted on 22-10-1997, the following irregularities were found:

1) the seal provided to the meter box was found tampered and seal wire with bit is exposing, 2) when the meter box is opened, it is found that there is no seal to the meter terminal cover and 3) meter cover is having 3 nos. seals.

The above irregularities constitute pilferage of energy. Thereafer, provisional assessment was made at Rs.4,12,515/- which was followed by issuance of show cause notice. Subsequently after filing objections by the petitioner and providing an opportunity, final assessment was made on 30-4-1998 atRs.2,90,522/-. On appeal, as per the orders dated 15-3-1999, it was reduced to Rs.1,97,118/-. Hence the Writ

Petition.

The learned counsel for the petitioner submits that having regard to the specific allegations made against him in respect of the irregularities as alleged to have been noted during the inspection where the specific allegation that the petitioner has tampered with the meter, it is yet necessary for the respondent authorities to send the meter to M.R.T. for report.

The learned Standing Counsel appearing on behalf of the respondents sought to repel the aforesaid contentions on the ground that there is no such request made by the petitioner.

Having considered the submissions made and on perusal of the record, the only point that falls for consideration is whether in the facts and circumstances of the case, there is any lapse in the procedure as contemplated under the law in regard to the finding arrived at against the petitioner and also assessment made.

There is no dispute of the fact that after the inspection was made on 22-10-1997 some allegations were made against the petitioner to the effect that the petitioner has meddled with the meter. The petitioner has submitted his explanation and denied his involvement and also made a request to the authorities to send the meter to M.R.T. for report. Inspite of such specific denial and also request made by the petitioner, no such action has been taken in this case for sending the meter to M.R.T. for report.

There is no explanation forthcoming on the part of the respondents 1 and 2 as to why such action was not taken. It is mandatory on the part of the respondents as per their own regulations in respect of any such allegation, necessarily the meter

has to be sent to M.R.T. for report and even during the M.R.T. report, the petitioner has to be given an opportunity. But in this case, neither the petitioner was given an opportunity nor the meter was sent to M.R.T. for report which is a serious lapse. However, by taking into consideration that the inspection was made as long back as on 22-10-1997, any such exercise now in this length of time would not yield any result either way.

In the circumstances, the Writ Petition is partly allowed by reducing the amount of assessment from Rs.1,97,118/- to Rs.1,37,983/-. No costs.

23-12-2004.

Hsd

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Twenty Third day of December, 2004.

Asst. Registrar

To

1.The Chairman and Managing Director. A.P. Transco, Vidyuth Soudha,Hyderabad.

2.The Chief Engineer, A.P. Transco, Nellore Zone,

Nellore.

3.The Superintending Engineer, A.P. Transco

Assessment Circle, Cuddapah.

4.The Addl. Divisional Engineer, A.P. Transco

(Operations) Kalikiri, Chittoor District.

5.2 C.D. copies.